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BAKER BOTTS LLP

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)

A34634 -070378.0108

First named inventor: John R. Mruz

Group Art Unit: 2817

Application Number: 09/896,171

Examiner: Benny T. Lee

Filed: June 29, 2002

Title: SWITCHABLE RF POWER DIVIDER/COMBINER

Commissioner for Patents
PO Box 1450, Alexandria
Alexandria, VA 22313-1450NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee

☐ small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.☒ other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Letter Accompanying Petition to Revive (identify the type of reply):

- ☐
- has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

- ☐
- has been paid previously on _____.

☐ is enclosed herewith.

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10/26/2004 HALI11 00000046 09896171

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity of \$ 212 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 22, 2004

Date

Telephone

Number: (212) 408-2585



Signature

Paul D. Ackerman

Typed or printed name

Baker Botts LLP

Address

30 Rockefeller Plaza, 44 Fl., New York, NY 10112-022

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

October 22, 2004

Date



Signature

Paul D. Ackerman

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

October 22, 2004

Date


Signature

Paul D. Ackerman

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

Please see Letter Accompanying Petition to Revive attached hereto.

(Please attach additional sheets if additional space is necessary)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Mruz et al.

Serial No. : 09/896,171

Art Unit: 2817

Filed : June 29, 2002

Examiner: Benny T. Lee.

For : SWITCHABLE RF POWER DIVIDER/COMBINER

LETTER ACCOMPANYING PETITION TO REVIVE

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.

October 22, 2004

Date of Deposit

Paul D. Ackerman

Attorney Name

Signature

39,891

PTO Registration No.

October 22, 2004

Date of Signature

Mail Stop Petition

Commissioner for Patents

Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions to revive the above-captioned application in accordance with 37 C.F.R. § 1.137(a). For the reasons set forth below, abandonment of the application was unavoidable. As set forth below, the abandonment was based on a failure to reply to an office action which was not received by the applicants or their counsel within the statutory period to respond to the action.

The above-captioned application was the subject of a Status Letter mailed to the United States Patent and Trademark Office on June 17, 2004. In the Status Letter, it was noted that no communication had been received from the Patent Office since applicants' October 8, 2003 filing

of a Request for Continued Examination.

On August 20, 2004, Baker Botts received a telephone call from Examiner Lee, responding to the Status Letter, informing applicants' counsel that the application was abandoned as a result of a failure to respond to an Office Action purported to have been mailed from the United States Patent and Trademark Office in January 2004.

The undersigned has conducted an internal investigation and has determined that our Docketing Department has no record of ever receiving an Office Action for this file from the Patent Office on or about January or February 2004. Indeed, to date, we have no record of ever receiving the Office Action from the Patent Office.

During the August 20, 2004 telephone call, Examiner Lee indicated that he would issue a Notice of Abandonment for this application. A review of the file in early October 2004 indicated that the Notice of Abandonment was not yet received. As a result of a further investigation conducted by the undersigned, a copy of the Office Action dated January 30, 2004, and a Notice of Abandonment dated August 24, 2004, were located on PAIR and printed by the undersigned on October 20, 2004 from PAIR's image retrieval system. A review of both the Office Action and Notice of Abandonment indicate that the Attorney Docket Number on these Patent Office communications is incorrect. The correct docket number for this file is A34634 - 070378.0108; the number reflected on the Patent Office papers is A30904 - 070378.0107.

A review of our File A30904 (the file referenced on the Patent Office papers) conducted on October 20, 2004 uncovered the August 24, 2004 Notice of Abandonment. This inquiry did not locate any record of Baker Botts receipt of the January 30, 2004 Office Action, which resulted in the abandonment of the above-referenced application.

A response to the Office Action dated January 30, 2004 is filed herewith.

For the reasons set forth above, the undersigned hereby avers that any delay in

responding to the Office Action mailed January 30, 2004 was entirely unavoidable. Applicant respectfully requests that this Petition to Revive Application be granted. Applicant further requests correction of the Patent Office files to reflect the proper attorney docket number of A34634 - 070378.0108.

Enclosed is a check in the amount of \$110.00 for the fee for this Petition fee as required under 37 C.F.R. § 1.17(l). Applicants do not believe that any additional fee is required in connection with the submission of this document. However, should any fee be required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit any overpayments made, to Deposit Account 02-4377. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BAKER BOTTS L.L.P.



Paul D. Ackerman
PTO Reg. No. 39,891
Attorney for Applicants

30 Rockefeller Plaza
New York, NY 10012-4498
(212) 408-2585

Enclosures

responding to the Office Action mailed January 30, 2004 was entirely unavoidable. Applicant respectfully requests that this Petition to Revive Application be granted. Applicant further requests correction of the Patent Office files to reflect the proper attorney docket number of A34634 - 070378.0108.

Enclosed is a check in the amount of \$110.00 for the fee for this Petition fee as required under 37 C.F.R. § 1.17(l). Applicants do not believe that any additional fee is required in connection with the submission of this document. However, should any fee be required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit any overpayments made, to Deposit Account 02-4377. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BAKER BOTTS L.L.P.



Paul D. Ackerman
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Attorney for Applicants

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Enclosures